

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

BOBBY SINGLETON, <i>et al.</i>,)	
)	
Plaintiffs,)	
)	
WES ALLEN, <i>et al.</i>)	No.: 2:21-cv-01291-AMM
)	
Defendants.)	

EVAN MILLIGAN, <i>et al.</i>,)	
)	
Plaintiffs,)	
)	
WES ALLEN, <i>et al.</i>)	No.: 2:21-cv-01530-AMM
)	
Defendants.)	

MARCUS CASTER, <i>et al.</i>,)	
)	
Plaintiffs,)	
)	
WES ALLEN, <i>et al.</i>)	No.: 2:21-cv-01536-AMM
)	
Defendants.)	

**SINGLETON PLAINTIFFS' RESPONSE TO DEFENDANTS' MOTION
FOR CLARIFICATION**

The Defendants have asked the Court to clarify its order regarding the scope of the upcoming hearing in *Caster* and *Milligan*, and the Court has directed all Plaintiffs to respond. Because the *Singleton* Plaintiffs have not asserted a claim

under the Voting Rights Act, they take no position on the scope of evidence the parties should be permitted to offer during the *Caster* and *Milligan* hearing.

The *Singleton* Plaintiffs note that the Defendants’ motion (incorrectly) contends that the 2023 Plan is lawful because it remedies “the cracking at the heart of” the *Caster* and *Milligan* Plaintiffs’ challenge to the 2021 Plan.” Doc. No. 156 at 4–5 (internal quotation marks omitted). To that end, the Defendants propose to show that the 2023 Plan “respect[s] majority-Black communities of interest like the Black Belt and Montgomery County, while also maintaining longstanding communities of interest in the Gulf and Wiregrass.” *Id.* at 5 (citations and internal quotation marks omitted). On that score, the *Singleton* Plaintiffs’ proposed plans, which Senators Singleton and Smitherman submitted but the Legislature rejected, perform materially better than the 2023 Plan. The 2023 Plan divides the eighteen core Black Belt counties evenly between Districts 2 and 7, while Senator Singleton’s plan keeps sixteen of the eighteen counties in a single district. Ex. 1. Moreover, the Singleton plan does not split Jefferson County – arguably the most important Alabama community of interest. Assuming *arguendo* that Montgomery County, the Gulf, and the Wiregrass are communities of interest, the Singleton Plan keeps each of these three communities of interest within single districts as well. And unlike the 2023 Plan, it uses race-neutral lines and complies with the Voting Rights Act by providing two opportunity districts. Doc. No. 147 at 14–18. Therefore, the Singleton Plan, and

not the 2023 Plan, complies with the Supreme Court's directive in *Cooper v. Harris*, 581 U.S. 285 (2017), that race-based district lines are impermissible unless the legislature or court cannot avoid a violation of Section 2 without them. *Id.* at 17–18. The Singleton Plaintiffs are prepared to support their position with evidence at the scheduled hearing on the merits of their claim that the 2023 Plan is an unconstitutional racial gerrymander.

Dated: August 4, 2023

Respectfully submitted,

/s/ Henry C. Quillen

Henry C. Quillen
(admitted *pro hac vice*)
WHATLEY KALLAS, LLP
159 Middle Street, Suite 2C
Portsmouth, NH 03801
Tel: (603) 294-1591
Fax: (800) 922-4851
Email: hquillen@whatleykallas.com

Joe R. Whatley, Jr.
W. Tucker Brown
WHATLEY KALLAS, LLP
2001 Park Place North
1000 Park Place Tower
Birmingham, AL 35203
Tel: (205) 488-1200
Fax: (800) 922-4851
Email: jwhatley@whatleykallas.com
tbrown@whatleykallas.com

/s/ James Uriah Blacksher

James Uriah Blacksher
825 Linwood Road
Birmingham, AL 35222
Tel: (205) 612-3752

Fax: (866) 845-4395
Email: jublacksher@gmail.com

Myron Cordell Penn
PENN & SEABORN, LLC
1971 Berry Chase Place
Montgomery, AL 36117
Tel: (334) 219-9771
Email: myronpenn28@hotmail.com

Diandra “Fu” Debrosse Zimmermann
Eli Hare
DICELLO LEVITT GUTZLER
420 20th Street North, Suite 2525
Birmingham, AL 35203
Tel.: (205) 855.5700
Email: fu@dicellolevitt.com
ehare@dicellolevitt.com

U.W. Clemon
U.W. Clemon, LLC
Renasant Bank Building
2001 Park Place North, Tenth Floor
Birmingham, AL 35203
Tel.: (205) 506-4524
Fax: (205) 538-5500
Email: uwclemon1@gmail.com

Edward Still
2501 Cobblestone Way
Birmingham, AL 35226
Tel: (205) 335-9652
Fax: (205) 320-2882
Email: edwardstill@gmail.com

Counsel for Singleton Plaintiffs